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8 **UNITED STATES BANKRUPTCY COURT**

9 **DISTRICT OF NEVADA**

10 In Re

Case No. BK-S-09-25412-BAM
Chapter 13

11 OSCAR ARNOLDO ORELLANA
12 ELVIRA ORELLANA

TRUSTEE: Rick A. Yarnall

13 Debtor

Hearing Date: 12/8/2009
Hearing Time: 1:30 p.m.

14 **DEBTOR'S OPPOSITION TO MOTION FOR RELIEF FROM STAY REGARDING**

15 **2735 San Vincente Street, Las Vegas, NV 89115**

16 Come now Debtors, Oscar Arnaldo Orellana & Elvira Orellana ("Debtors"), by and
17 through their legal counsel, David Crosby, of the law firm of Crosby & Associates, and
18 hereby files this Opposition to Motion For Relief From Automatic Stay filed by , US Bank
19 Notional Association, as successor Trustee to Bank of America, National Association
20 (successor by merger to LaSalle Bank National Association) as Trustee for Morgan Stanley
21 Mortgage Loan Trust 2006-15XS. This Opposition is based on the Memorandum of Points
22 and Authorities attached hereto as well as any oral arguments which the court may accept
23 at the time of hearing.

24 **STATEMENT OF FACT**

25 Debtors are the owner of the subject property described as 2735 San Vincente
26 Street, Las Vegas, NV 89115. Debtors filed a Chapter 13 Bankruptcy on or about August
27 21, 2009. Secured creditor, US Bank Notional Association, as successor Trustee to Bank
28 of America, National Association (successor by merger to LaSalle Bank National
Association) as Trustee for Morgan Stanley Mortgage Loan Trust 2006-15XS is more than
adequately protected.

1 The Subject Property is a rental property, i.e. a non-primary residence. In their
2 petition, the Debtor listed the Subject Property at its present value, \$35,360.00. The
3 Debtors have filed a motion to value collateral in order to establish the fair market value
4 of the Subject Property at \$35,360.00.

5 The Debtors intend to purchase the Subject Property through the Chapter 13 plan
6 for the sum of \$35,360.00, over 60 months.

7 **POINTS AND AUTHORITIES**

8 11 USC Section 362 (d) (1) states that the Court may terminate, modify or condition
9 stay

10 "for cause, including the lack of adequate protection of an
11 interest in property of such party in interest;---"

12 ... 11 USC Section 362 (d) (2) the Court may terminate, modify or condition a stay

13 "with respect to a stay of an act against property under
14 subsection (a) of this section, if-

15 (A) the debtor does not have an equity in such
16 property AND

17 (B) such property is not necessary to an effective
18 reorganization

19 **CONCLUSION**

20 THEREFORE, based upon the facts and the points and authorities set forth
21 herein, and any arguments heard at the hearing on this matter, Debtor requests
22 the Motion for Relief from the Automatic Stay be denied and the Debtors intend to
23 purchase the Subject Property through the Chapter 13 plan..

24 DATED this 4th day of December, 2009.

25 CROSBY & ASSOCIATES

26 By: /s/ David M. Crosby
27 DAVID M. CROSBY, ESQ.
28 Nevada Bar No. 003499
711 S. 8th St.
Las Vegas, Nevada 89101
Attorneys for Debtor

CERTIFICATE OF MAILING

I, the undersigned, an employee of the Crosby & Associates, hereby certify that on the 4th day of December, 2009, I deposited in the United States Mail, first class mail, postage pre-paid, and or faxed a true and correct copy of the **Opposition to Motion for Relief from Automatic Stay** to all parties listed below:

Trustee

Rick A. Yarnall
701 South Bridger #820
Las Vegas, NV 89101

Debtor

Oscar Arnaldo Orellana
Elvira Orellana
1483 Miner Way
Las Vegas, NV 89104

Attorneys

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/s/ Amelina Delgado
An employee of
CROSBY & ASSOCIATES